

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-1060

In re: DARRYL DEVON GASTON,

Petitioner.

On Petition for Writ of Mandamus.
(1:06-cr-00310-JAB-1; 1:14-cv-01051-JAB-JLW;
1:11-cv-00728-JAB-JLW)

Submitted: May 21, 2015

Decided: May 26, 2015

Before MOTZ, KING, and WYNN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Darryl Devon Gaston, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darryl Devon Gaston petitions for a writ of mandamus seeking an order directing the district court to not construe his "motion to amend and expand the record" as a successive 28 U.S.C. § 2255 (2012) motion. We conclude that Gaston is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. U.S. Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Mandamus may not be used as a substitute for appeal. In re Lockheed Martin Corp., 503 F.3d 351, 353 (4th Cir. 2007).

The relief sought by Gaston is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny Gaston's petition for writ of mandamus and his supplemental petition. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DENIED